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Appl. No.: 09/852,630
Applicant(s): Andrew Strawn et al.
Filed: May 11, 2001
Art Unit: 2687
Examiner: Marcos L. Torres
Title: RADIOTELEPHONE

Confirmation No.: 5351


Docket No.: NC25226US (300252)
Customer No.: 00826

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P.O. Box 1450
Alexandria, VA 22313-1450

**APPEAL BRIEF TRANSMITTAL
(PATENT APPLICATION – 37 C.F.R. § 41.37)**

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on December 5, 2006.
2. ☐ Applicant claims small entity status.
3. Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:
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APPEAL BRIEF UNDER 37 CFR § 41.37

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" filed December 5, 2006.

1. ***Real Party in Interest.***

The real party in interest in this appeal is Nokia Mobile Phones Limited, the assignee of the above-referenced patent application.

2. ***Related Appeals and Interferences.***

There are no related appeals and/or interferences involving this application or its subject matter.

3. ***Status of Claims.***

The present appeal involves Claims 1-6, 8-12, and 49, which are presently under a final rejection as set forth by the final Office Action mailed July 6, 2006, and the Advisory Action mailed on October 31, 2006. The claims at issue are set forth in the attached Claims Appendix.

4. *Status of Amendments.*

No amendments have been filed subsequent to the final Office Action of July 6, 2006.

5. *Summary of Claimed Subject Matter.*

In general terms, embodiments of the present invention are directed to a removable housing for a radiotelephone. More particularly, independent Claim 1 provides an electronic radiotelephone having a first housing and a second housing for housing electronic components of the radiotelephone. For example, in an embodiment described in the specification, the radiotelephone **1** has a rear cover **5** (i.e., a first housing) and a front cover **2** (i.e., a second housing). See, e.g., page 3, lines 20-25, and FIGS. 1 and 2.

Claim 1 further recites that the first housing has an element for providing user releasable coupling of the first housing and the second housing. The element has an operating surface and a formation. The formation co-operates with a complementary formation on the second housing. The element is movable between a first and a second position such that when the element is in the first position the formation and complementary formation co-operate to allow the first housing to be coupled to the second housing and when the element is in the second position to allow the second housing to be removed from the first housing by the user. For example, in an embodiment described in the specification, the rear cover **5** (i.e., the first housing) has a release button **26** (i.e., an element) for releasably coupling the rear cover **5** and the front cover **2** (i.e., the second housing). See, e.g., page 4, lines 27-29, and FIGS. 1-3. In this embodiment, the release button **26** (i.e., the element) has an operating portion **30** (i.e., an operating surface) and a latching portion **31**. See, e.g., page 5, lines 8-10, and FIGS. 1 and 3. The latching portion **31** forms a ridge (i.e., a formation) that is arranged to engage with a complementary lip **32** (i.e., a complementary formation) on the front cover **2** (i.e., the second housing). See, e.g., page 5, lines 19-21; page 6, lines 5-10; and FIG. 3. The release button **26** (i.e., the element) is moveable between a first position, where the ridge of the latching portion **31** engages the complementary lip **32** of the front cover **2** and a second position where the latching portion **31** of the element is pushed away from the lip **32** on the front cover **2**. See, e.g., page 5, lines 8-17; page 6, line 27 - page 7, line 18; and FIG. 3.

Independent Claim 1 further recites that the radiotelephone comprises a biasing mechanism to aid a user to release the second housing from the first housing. The biasing mechanism comprises a compression biased releasing mechanism. The compression biased releasing mechanism is arranged to resiliently compression bias the element into the first position to allow a user to actuate the element, via the operating surface, against the compression bias into the second position to release the co-operation of the formation and complementary formation thereby allowing the housings to be removed from one another. For example, in an embodiment described in the specification, the compression biased releasing mechanism includes the release button **26** (i.e., the element) being made out of a resilient material and having one end, the lower section **27**, attached to the rear cover **5**. *See, e.g.*, page 4, line 31 - page 5, line 6, and FIG. 3. The resilient material allows the upper section **28** of the release button **26** to pivot relative to the lower section **27**. *See, e.g.*, page 5, lines 4-6. Since the material is resilient, the upper section **28** of the release button **26** is biased against the upper wall **18** of the rear cover **5** (i.e., the first position), but can be pushed by the user into a second position where the upper section **28** is pivoted away from the upper wall **18**. *See, e.g.*, page 5, lines 8-15, and FIG. 3.

Independent Claim 1 further recites that the biasing mechanism also comprises a compression biased urging mechanism. The compression biased urging mechanism is arranged to be in resilient compression to store energy when the formation and complementary formation are coupled and to automatically urge the first and second housings away from each other when the coupling of the formation and the complementary formation are released by releasing energy stored in the compression biased urging mechanism. For example, in an embodiment described in the specification, the compression biased urging mechanism comprises a leaf spring **37** coupled to an inside wall of the front cover **2**. *See, e.g.*, page 6, lines 12-14, and FIGS. 4a and 4b. The leaf spring **37** is arranged to be compressed by the inner housing **8** when the front cover **2** and the rear cover **5** are attached (i.e., the formation and the complementary formation are coupled). *See, e.g.*, page 6, lines 15-17, and FIG. 4a. The leaf spring **37** provides spring bias between the front and the rear covers to allow the front cover **2** to be urged away from the rear cover **5** when the formation and the complementary formation are uncoupled. *See, e.g.*, page 6, lines 17-25, and FIGS. 4a and 4b.

Dependent Claim 2 depends from independent Claim 1 and recites that the first housing is presented away from the user during operation of the radiotelephone and that the second housing is presented towards the user during operation of the radiotelephone. *See, e.g.*, page 2, lines 15-17.

Dependent Claim 3 depends from independent Claim 1 and recites that the radiotelephone includes a retaining mechanism for retaining the electronic components of the radiotelephone to the first housing. For example, in an embodiment described by the specification, the radiotelephone 1 includes an inner housing 8 for retaining the electrical components of the radiotelephone, the inner housing 8 coupled to the rear cover 5. *See, e.g.*, page 3, line 24 - page 4, line 5, and FIGS. 1 and 2.

Dependent Claim 4 depends from Claim 1 and recites that the second housing has a lip for engaging with the element to allow the first housing to be coupled to the second housing. For example, the specification describes an embodiment where the front cover 2 has a lip for engaging a ridge of the latching portion 31 of the release button 26 (i.e., the element) so that the front cover 2 can be coupled to the rear cover 5. *See, e.g.*, page 5, lines 19-21; page 6, lines 5-10; and FIG. 3.

Dependent Claim 5 depends from Claim 1 and recites that the element is a flexible hinge. As described above, the specification describes an embodiment where the element (e.g., the release button 26) is a flexible hinge. *See, e.g.*, page 5, lines 4-6.

Dependent Claim 6 depends from Claim 1 and recites that the first housing further comprises a retaining mechanism for retaining the electronic components of the radiotelephone to the second housing. As described above, the specification describes an embodiment where the rear cover 5 (i.e., the first housing) includes an inner housing 8 for retaining the electronic components of the radiotelephone. *See, e.g.*, page 3, line 24 - page 4, line 5.

Dependent Claim 8 depends from Claim 1 and recites that the compression biased urging mechanism comprises a spring associated with the first housing which is compressed when the first and second housings are coupled. Dependent Claim 9 depends from Claim 1 and recites that the compression biased urging mechanism comprises a spring associated with the second housing which is compressed when the first and second housings are coupled. As described above, the specification describes an embodiment where the compression biased urging

mechanism includes a spring, such as the leaf spring **37**, that is associated with the front cover **2** (i.e., the second housing) and that is compressed when the rear and front covers (i.e., the first and second housings) are coupled. *See, e.g.*, page 6, lines 12-22, and FIGS. 4a and 4b. The specification, however, also describes that the spring may be alternatively coupled to the rear cover **5** (i.e., the first housing) or the inner housing **8**. *See, e.g.*, page 6, lines 22-25.

Dependent Claim 10 depends from Claim 1 and recites that the compression biased urging mechanism comprises a rubber seal associated with the first housing which is compressed when the first and second housings are coupled. Dependent Claim 11 depends from Claim 1 and recites that the compression biased urging mechanism comprises a rubber seal associated with the second housing and which is compressed when the first and second housings are coupled. The specification describes that, in one embodiment, as an alternative to the leaf spring described above, the compression biased urging mechanism may include a rubber seal associated with either the inner housing, the rear cover, or front cover (i.e., the first or second housings) for urging the front cover away from the rear cover when the covers are attached. *See, e.g.*, page 7, line 30 - page 8, line 2.

Dependent Claim 12 depends from Claim 1 and recites that the radiotelephone includes an interior volume disposed between the first and second housings which houses electronic components of the radiotelephone. *See, e.g.*, FIGS. 1 and 2.

Dependent Claim 49 depends from Claim 1 and recites that the compression biased urging mechanism is elastically deformable. As described above, the specification describes a spring or a rubber seal that can be elastically and resiliently compressed to provide the compression bias. *See, e.g.*, page 6, lines 12-25; page 7, line 30 - page 8, line 2; and FIGS. 4a and 4b.

6. *Grounds of Rejection to be Reviewed on Appeal.*

Claim 1 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 1-6, 8-9, 12, and 49 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,347,218 to Fuhrmann et al. (hereinafter "Fuhrmann") in view of U.S. Patent No. 5,933,330 to Beutler et al. (hereinafter "Beutler"). Claims 10 and 11 were rejected under 35 U.S.C. § 103(a) as being obvious over Fuhrmann in

view of Beutler and further in view of U.S. Patent No. 4,719,322 to Guzik et al. (hereinafter "Guzik").

7. ***Argument.***

A. **The specification provides sufficient support for the claimed invention to satisfy the written description requirement of 35 U.S.C. § 112, first paragraph.**

The written description requirement of 35 U.S.C. § 112, first paragraph, requires sufficient information in the original disclosure to show that the inventor possessed the claimed invention at the time of the original filing. *See, e.g., Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1561 (Fed. Cir. 1991). The possession test requires assessment from the viewpoint of one of skill in the art. *See, e.g., Moba, B.V. v. Diamond Automation, Inc.*, 325 F.3d 1306 (Fed. Cir. 2003) (citing *Vas-Cath, Inc.* at 1563-64). The written description need not describe the claimed subject matter in exactly the same terms as used in the claims. *See, e.g., Koito Manufacturing Co., Ltd. V. Turn-Key-Tech, LLC*, 381 F.3d 1142 (Fed. Cir. 2004) (citing *Eiselstein v. Frank*, 52 F.3d 1035, 1038 (Fed. Cir. 1995)). Thus, the written description requirement is met if a person would have understood the inventor to have been in possession of the claimed invention at the time of filing, even if not every nuance of the claims is explicitly described in the specification. *See, e.g., In re Alton*, 76 F.3d 1168 (Fed. Cir. 1996). Disclosure in an originally filed claim satisfies the written description requirement. *See, e.g., Union Oil Co. of California v. Atlantic Richfield Co.*, 208 F.3d 989 (Fed. Cir. 2000) (citing *In re Gardner*, 480 F.2d 879, 880 (CCPA 1973)).

With regard to the rejection of independent Claim 1 under 35 U.S.C. § 112, first paragraph, the Office Action submits that the feature, "wherein the compression biased urging mechanism is arranged to be in resilient compression to store energy when the formation and complementary formation are coupled," is unsupported by the originally filed application. Support for this feature can be found at least at: (1) page 6, lines 12 to 25; (2) FIGS. 4a and 4b; (3) in the sentence bridging pages 7 and 8 (which refers to a rubber seal); and (4) in the originally-filed dependent Claims 7 and 10. More particularly, page 6, lines 12 to 25, of the specification recites:

“FIG. 4a and 4b shows a modification to the above described radiotelephone in which a leaf spring **37** is coupled to the inside of the front wall **3** of the front cover **2**. . . . The leaf spring **37** is arranged to be compressed by the inner housing **8** when the front and rear covers are attached, as shown in FIG. 4a. The leaf spring **37** provides spring bias between the front and rear covers. The spring bias between the front and rear covers is provided transverse to the longitudinal axis of the covers to allow the front cover **2** to be urged away from the rear cover **5** uniformly on a transverse plane, as shown in FIG. 4b. However, any type of spring may be used that urges the front cover away from the rear cover. Alternatively, however, the spring may be coupled to either the rear cover or inner housing and arranged to urge the front cover away from the rear cover when the front and rear covers are attached.”

The sentence bridging pages 7 and 8 further recites:

“a rubber seal may be used in place of a spring for urging the front cover away from the rear cover when the front and rear covers are attached, wherein the rubber seal may be coupled to either the front cover, the rear cover or the inner housing.”

Furthermore, the originally-filed dependent Claims 7 and 10 recite that the radiotelephone may comprise “means for urging the second housing away from the first housing to aid the removal of the second housing from the first housing” and that the means for urging may comprise “a rubber seal associated with the first housing and arranged to be compressed when the first and second housings are coupled.”

Based on the above described sections of the as-filed application, a person having ordinary skill in the art would reasonably conclude that the Applicant had possession of a radiotelephone having a compression biased urging mechanism arranged to be in resilient compression when the formation and complementary formation (of the first and second housings) are coupled. Although the specification does not explicitly recite that the spring or other resilient element “stores energy” when it is compressed, it is inherent, in the context of the compression of a spring or other resilient element such as a rubber seal, that energy is stored by the compressed resilient element. This fact is well known to a person having ordinary skill in the art. *See, e.g.,* HUGH D. YOUNG, UNIVERSITY PHYSICS, pp. 179-182 (8th ed. Addison-Wesley 1992) (describing elastic potential energy and the energy stored in a compressed spring). Therefore, Applicant submits that independent Claim 1 is sufficiently supported for purposes of satisfying the written description requirements of 35 U.S.C. § 112, first paragraph.

B. No combination of the cited references teaches or suggests all of the elements of independent Claim 1.

As described above, independent Claim 1 is directed to a radiotelephone comprising a first and a second housing for housing electronic components of the radiotelephone and a biasing mechanism to aid a user to release the second housing from the first housing. The Office Action rejects independent Claim 1 under 35 U.S.C. § 103(a) as being unpatentable over Fuhrmann in view of Beutler.

The Fuhrmann reference describes an electronic device having a shell-shaped housing element **3** connected to a plate-shaped base element **2** using screws. A wall **5** of the housing element **3** has openings **7** to provide access to control elements and/or display elements, such as keys **8** and display device **9**. The electronic device has attachment means **11** for detachably connecting an external wall element **14** to the housing element **3**. The external wall element **14** at least partially covers the housing wall **5** and has openings **7'** that are aligned with the openings **7** in the housing wall **5**. In this way, the external appearance of the electronic device can be modified by changing the external wall element **14**.

As acknowledged by the final Office Action (page 4, line 13 - page 5, line 2), Fuhrmann does not disclose the following claimed features: “wherein the biasing mechanism comprises a compression biased releasing mechanism and a compression biased urging mechanism, the compression biased releasing mechanism being arranged to resiliently compression bias the element into the first position to allow a user to actuate the element, via the operating surface, against the compression bias into the second position to release the co-operation of the formation and complementary formation thereby allowing the housings to be removed from one another, and wherein the compression biased urging mechanism is arranged to be in resilient compression to store energy when the formation and complementary formation are coupled and to automatically urge the first and second housings away from each other when the coupling of the formation and the complementary formation are released by the releasing energy stored in the compression biased urging mechanism.” The final Office Action points towards Beutler as disclosing these features, and refers to FIGS. 18 and 20 and column 13, line 19, to column 14, line 44, of Beutler to as describing these features.

Applicants respectfully submit that the final Office Action mischaracterizes Beutler. The passage of Beutler cited in the final Office Action describes a mechanism whereby a battery pack **1704** is releasably attached to a phone's lower housing **108**. This mechanism comprises two springs **1820** and **1821** (see FIGS. 18 and 20), which the Office Action appears to consider analogous to one or more elements of the claimed biasing mechanism. On the contrary, these springs are deformed by respective projections **1722** and **1723** on the battery pack **1704** (see FIG. 17) during attachment of the battery pack **1704** to the lower housing **108**, in order to secure the attachment between those two parts. As described at column 14, lines 40-44, "[t]o complete assembly, the battery pack **1704** is released allowing the springs **1820** and **1821** to extend and urge the battery pack **1704** in the direction of arrow **2106** of FIG. 21 until projections **1800** and **1801** are received in receiving slots **1752** and **1753**, respectively." The projections **1800** and **1801** are best seen in FIGS. 18 and 19 while the slots **1752** and **1753** are best seen in FIG. 17. This arrangement merely loads the battery pack **1706** in place, i.e., it provides a spring biased locking mechanism for the battery pack **1706**.

To release the battery pack **1704**, the battery pack must be manually disassembled from the lower housing **108**. As described at column 15, lines 24-36:

"[t]he battery pack **1704** is disassembled from the lower housing **108** by substantially reversing the steps previously described with respect to assembly shown in FIG. 21. First the battery pack **1704** is pushed in the direction opposite to arrow **2106** until projections **1800** and **1801** are removed [from] receiving slots **1752** and **1753**, respectively; springs **1820** and **1821** in receiving slots **1816** and **1817**, respectively, are depressed by projections **1722** and **1723**, respectively; and end **1708** abuts endwall **1742**. Next, end **1709** of the battery pack **1704** is swung in the direction opposite to arrow **2104** until projections **1800** and **1801** clear endwall **1743**. Once clear, the battery pack **1704** can be lifted away from the recess **1740** and the lower housing."

Clearly, Beutler does not disclose a mechanism whereby first and second housings are urged apart from one another as in the claimed invention.

The above arrangement disclosed by Beutler in no way teaches or suggests the compression biased releasing mechanism or the compression biased urging mechanism, as each are recited in independent Claim 1. More particularly, Beutler does not teach or suggest a compression biased releasing mechanism arranged to allow the user to release the cooperation of

complementary formations, allowing housings to be removed from one another, as recited by independent Claim 1. Beutler also does not teach or suggest a compression biased urging mechanism arranged to urge first and second housings away from each other when the coupling of the complementary formations is released, as further recited by independent Claim 1. Moreover, none of the other cited references teach or suggest a compression biased releasing mechanism or a compression biased urging mechanism as recited by independent Claim 1.

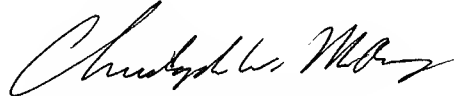
In this regard, the Guzik reference is directed to portable radio housings arranged to incorporate keypads and speakers. When rejecting dependent Claims 10 and 11, the final Office Action cites column 1, lines 27-29, of Guzik as describing a compression biased urging mechanism comprised of a rubber seal associated with the first or second housing that is compressed when the first and second housings are coupled, as recited by Claims 10 and 11. The cited passage of Guzik, however, merely states that an "O" ring seal may be used between the keypad and the outer housing to waterproof the housing. Guzik does not teach or suggest that such an "O" ring is used as a compression biased urging mechanism arranged to be in resilient compression to store energy when the formation and complementary formation are coupled and to automatically urge the first and second housings away from each other when the coupling of the formation and the complementary formation (of the first and second housings) are released, as recited by independent Claim 1. Indeed, the final Office Action does not cite Guzik as disclosing such a feature of the claimed invention. Since none of the cited references teach or suggest the compression biased releasing mechanism or the compression biased urging mechanism of independent Claim 1, Applicants submit that independent Claim 1, as well as the claims that depend therefrom, are allowable over the cited references.

Furthermore, according to Beutler, housing parts are generally fixed together using a standard arrangement of male and female formations. For example, FIG. 3 of Beutler illustrates how tabs **316** and **318** are inserted into slots **311** and **313** to join the housing parts, and FIG. 13 of Beutler illustrates how hoops **1312** and **1314** and snaps are used to join the housing parts. As such, Beutler adds nothing to, and only serves to reinforce, the teaching of the prior art referred to at page 1, lines 15 to 21, of the Applicant's specification, and also that of Fuhrmann. For the reasons described above, Applicants submit that the claimed invention of Claims 1-6, 8-12, and 49 is both novel and non-obvious in view of the cited references.

CONCLUSION

For the above reasons, it is submitted that the rejections of Claims 1-6, 8-12, and 49 are erroneous and reversal of the rejections is respectfully requested. A Claims Appendix containing a copy of claims involved in the appeal, an Evidence Appendix, and a Related Proceedings Appendix are attached.

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Claims Appendix

The claims currently on appeal are as follows:

1. (Previously Presented) An electronic radiotelephone comprising a first and a second housing for housing electronic components of the radiotelephone and a biasing mechanism to aid a user to release the second housing from the first housing;

the first housing having an element, with an operating surface, and a formation which co-operates with a complementary formation on the second housing for user releasable coupling of the first housing and the second housing; the element being movable between a first and a second position such that when the element is in the first position the formation and complementary formation co-operate to allow the first housing to be coupled to the second housing and when the element is in the second position to allow the second housing to be removed from the first housing by the user;

wherein the biasing mechanism comprises a compression biased releasing mechanism and a compression biased urging mechanism, the compression biased releasing mechanism being arranged to resiliently compression bias the element into the first position to allow a user to actuate the element, via the operating surface, against the compression bias into the second position to release the co-operation of the formation and complementary formation thereby allowing the housings to be removed from one another, and wherein the compression biased urging mechanism is arranged to be in resilient compression to store energy when the formation and complementary formation are coupled and to automatically urge the first and second housings away from each other when the coupling of the formation and the complementary formation are released by releasing energy stored in the compression biased urging mechanism.

2. (Original) A radiotelephone according to claim 1, wherein the first housing is presented away from a user during operation of the radiotelephone and the second housing is presented towards a user during operation of the radiotelephone.

3. (Previously Presented) A radiotelephone according to claim 1 comprising a retaining mechanism for retaining the electronic components of the radiotelephone to the first housing.

4. (Previously Presented) A radiotelephone according to claim 1, wherein the second housing has a lip for engaging with the element to allow the first housing to be coupled to the second housing.

5. (Previously Presented) A radiotelephone according to claim 1, wherein the element is a flexible hinge.

6. (Previously Presented) A radiotelephone according to claim 1, wherein the first housing further comprises a retaining mechanism for retaining the electronic components of the radiotelephone to the second housing.

7. Cancelled without disclaimer or prejudice.

8. (Previously Presented) A radiotelephone according to claim 1, wherein the compression biased urging mechanism comprises a spring associated with the first housing which is compressed when the first and second housings are coupled.

9. (Previously Presented) A radiotelephone according to claim 1, wherein the compression biased urging mechanism comprises a spring associated with the second housing which is compressed when the first and second housings are coupled.

10. (Previously Presented) A radiotelephone according to claim 1, wherein the compression biased urging mechanism comprises a rubber seal associated with the first housing which is compressed when the first and second housings are coupled.

11. (Previously Presented) A radiotelephone according to claim 1, wherein the compression biased urging mechanism comprises a rubber seal associated with the second housing and which is compressed when the first and second housings are coupled.

12. (Previously Presented) A radiotelephone is accordance with claim 1, comprising:
an interior volume disposed between the first and second housings which houses
electronic components of the radiotelephone.

13-48 Cancelled without disclaimer or prejudice

49. (Previously Presented) A radiotelephone according to claim 1 wherein the compression biased urging mechanism is elastically deformable.

In re: Andrew Strawn et al.

Appl. No.: 09/852,630

Filing Date: May 11, 2001

Page 15

Evidence Appendix

No additional evidence is provided.

In re: Andrew Strawn et al.
Appl. No.: 09/852,630
Filing Date: May 11, 2001
Page 16

Related Proceedings Appendix

There are no related proceedings.